Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Termination of Certain Proceedings as Dormant	)	CG Docket No. 14-97
	)	
	)	
	)	

ORDER

Adopted: September 15, 2014 **Released: September 15, 2014**

By the Acting Chief, Consumer & Governmental Affairs Bureau:

I. INTRODUCTION

1. By this Order, the Consumer & Governmental Affairs Bureau (CGB) terminates, as dormant, the proceedings listed on the Attachment hereto, which were also listed in the attachment to the Public Notice on *Termination of Certain Proceedings as Dormant* released on June 30, 2014.[1] We believe that termination of these proceedings furthers the Commission's organizational goals of increasing the efficiency of its decision-making, modernizing the agency's processes in the digital age, and enhancing the openness and transparency of Commission proceedings for practitioners and the public. In addition, on the basis of on further evaluation, we leave open one proceeding included in the *Third Dormant Proceedings Termination Public Notice*, namely, *In the Matter of ASAP Paging, Inc., Petition for Preemption of Public Utility Commission of Texas Concerning Retail of Local Calls to CMRS Carriers,* WC Docket No. 04-6.

II. BACKGROUND

2. On February 4, 2011, the Commission released a Report and Order that, *inter alia,* amended Section 0.141 of the Commission's organizational rules to delegate authority to the Chief, CGB to conduct periodic review of all open dockets with the objective of terminating those that were inactive.[2] The Commission stated that termination of such proceedings also will include the dismissal as moot of any pending petition, motion, or other request for relief in the terminated proceeding that is procedural in nature or otherwise does not address the merits of the proceeding.[3]

[1] *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 29 FCC Rcd 7664 (CGB 2014) ("*Third Dormant Proceedings Termination Public Notice*").

[2] *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, GC Docket No. 10-44, Report and Order, 26 FCC Rcd 1594 (2011) ("Procedure Order").

[3] *Id.* at 1604, para. 24.

3. Following the release of the *Procedure Order*, CGB, in consultation with the relevant other bureaus and offices, conducted a review of all open dockets and identified those dockets that could potentially be terminated. As a result of that process, CGB issued the *First Dormant Proceedings Termination Public Notice*, listing the open dockets under consideration for termination, and providing interested parties the opportunity to file comments on these proposed terminations.[4] Following these procedures, by Order released November 1, 2011, CGB terminated, as dormant the docketed proceedings listing in the attachment thereto.[5] On February 15, 2012, CGB released a second *Dormant Proceedings Termination Public Notice* listing open dockets under consideration for termination.[6] On September 27, 2012, CGB released an Order in which it terminated as dormant the proceedings listed in the attachment thereto.[7]

4. On June 30, 2014, CGB released the *Third Dormant Proceedings Termination Public Notice*. On July 22, 2014, CGB released a Public Notice announcing that comments and reply comments were due August 20, 2014 and September 4, 2014, respectively.[8] In response to the *Third Dormant Proceedings Termination Public Notice*, we received one Opposition, one comment, one reply comment, and one *ex parte* filing.

III. DISCUSSION

5. Based on our review of the record received in response to the *Third Dormant Proceedings Termination Public Notice*, we terminate the proceedings listed in the attachment to this Order[9] and leave open one proceeding that had been listed in Attachment A to the *Public Notice*. We received one Opposition and an *Ex Parte* Letter requesting that a proceeding noted in the *Third Dormant Proceedings Termination Public Notice* remain open.[10] After review of these submissions and our further evaluation, we have determined that WC Docket No. 04-6 will remain open and will not be terminated at this time.[11] We received one comment, and one reply comment in opposition requesting that we release a revised list of dockets under consideration to include a particular rulemaking that had not been listed in the attachment to the *Third Dormant Proceedings Termination Public Notice* – namely, WT Docket No. 06-49. For the reasons given below, we reject the request by PCS Partners, L.P. to release a revised list of dockets under consideration in this proceeding in order to include an additional rulemaking.

---

[44] *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 26 FCC Rcd 7850 (CGB 2011) ("*First Dormant Proceedings Termination Public Notice"*).

[5] *Termination of Certain Proceedings as Dormant*, Order, 26 FCC Rcd 15312 (CGB 2011) ("*First Dormant Proceedings Termination Order*"*)*.

[6] *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 27 FCC Rcd 1613 (CGB 2012) ("*Second Dormant Proceedings Termination Public Notice*").

[7] *Termination of Certain Proceedings as Dormant*, Order, 27 FCC Rcd 11284 (CGB 2012) ("*Second Dormant Proceedings Termination Order*").

[8] *Consumer & Governmental Affairs Bureau Announces Comment and Reply Comment Dates for Proceeding on Termination of Certain Proceedings as Dormant,* 29 FCC Rcd 8596 (CGB 2014).

[9] Any party aggrieved by a termination under this delegation of authority may file a petition for reconsideration with CGB or an application for review with the full Commission *Procedure Order*, 26 FCC Rcd at 1604, paras. 23-24.

[10] *See* W. Scott McCollough, Opposition to Dismissal, WC Docket No. 04-6 and CG Docket 14-97 (filed Aug. 20, 2014) (McCollough Opposition). *See also* Letter from W. Scott McCollough to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 04-6 (filed Sept. 9, 2014).

[11] *Pleading Cycle Established for Petition of ASAP Paging, Inc. for Preemption of the Public Utility Commission of Texas Concerning Retail Rating of Local calls to CMRS Carriers*, 19 FCC Rcd 936 (2004).

6. **W. Scott McCollough, Opposition to Dismissal**. We received an opposition requesting that WC Docket No. 04-6 remain open.[12] Based upon further evaluation of the record, we find that it may be appropriate to address issues raised in this proceeding in the future. Accordingly, we will not terminate this proceeding at this time.

7. **PCS Partners, L.P.** PCS Partners, L.P. ("PCSP") requests that we release a revised Attachment A to the Public Notice in order to include the Multilateration Location and Monitoring Service (M-LMS) rulemaking proceeding in WT Docket No. 06-49 in the list of proceedings that we proposed to terminate. As noted by PCSP, on June 10, 2014, the Commission released its Order terminating the M-LMS rulemaking proceeding in WT Docket No. 06-49, finding that the "various proposals for broad revisions of the applicable rules do not merit further consideration at this time."[13] In its comments filed in response to the *Third Dormant Proceedings Public Notice*, PCSP asserts that the Bureau did not issue a public notice and did not provide an opportunity for public input prior to release of the *M-LMS Termination Order*, and claims that the *M-LMS Termination Order* "therefore does not comply with applicable rules."[14] PCSP also claims that the Commission did not adequately support its decision in the *M-LMS Termination Order*.[15] We reject the request by PCS Partners that we release a revised list of dockets under consideration in this proceeding in order to include the M-LMS rulemaking. The Commission's delegation of authority to the Bureau to terminate certain proceedings does not require the process requested by PCSP in this case, because the Commission itself appropriately and expressly terminated the WT Docket No. 06-49 proceeding in the *M-LMS Termination Order*.[16] Further, to the extent that PCSP raises substantive arguments regarding the *M-LMS Termination Order*, those arguments should have been raised in a petition for reconsideration in the WT Docket No. 06-49 proceeding and not here.[17]

IV. PROCEDURAL MATTERS

8. Upon publication of this Order in the Federal Register, these proceedings will be terminated in the Electronic Comment Filing System (ECFS). The record in the terminated proceedings will remain part of the Commission's official records, and the various pleadings, orders, and other documents in these dockets will continue to be accessible to the public, post-termination.

9. For additional information concerning this Order, please contact Gayle Radley Teicher at (202) 418-1515, or via e-mail at Gayle.Teicher@fcc.gov.

---

[12] *See generally* McCollough Opposition.

[13] Amendment of the Commission's Part 90 Rules in the 904-909.75 and 919.75-928 Bands, WT Docket No. 06-49, *Order*, 29 FCC Rcd 6361 (2014) ("*M-LMS Termination Order*").

[14] Comments of PCS Partners, L.P., CG Docket No. 14-97 (filed Aug. 20, 2014) (PCSP Comments) at 1-2.

[15] PCSP Comments at 2-3.

[16] *See* Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization, GC Docket No. 10-44, *Report and Order*, 26 FCC Rcd 1594, 1604 ¶23 (2011); 47 C.F.R. § 1.425, Opposition of Itron, Inc. to Comments of PCS Partners, L.P., CG Docket No. 14-97 (filed Sept. 4, 2014) (Itron Opposition) at 3.

[17] 47 C.F.R. § 1.429; Itron Opposition at 3.

V. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED**, pursuant to the authority contained in Sections 4(i), and 4(j) of the Communications Act, 47 USC 154(i) and (j), and Section 0.141 of the Commission's rules, that the proceedings set forth in the Attachment hereto are TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief, Consumer & Governmental Affairs Bureau

ATTACHMENT